

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

<b>Gary Carter</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>Civil No. 2:13-0019</b>
<b>v.</b>	)	<b>Judge Sharp</b>
	)	
<b>W. B. Melton, et al.,</b>	)	
	)	
<b>Defendant.</b>	)	

**ORDER**

Plaintiff Gary Carter, an inmate at Overton County Jail (OCJ) proceeding *pro se*, has filed a civil rights complaint pursuant to 42 U.S.C. § 1983. He alleges that a corrections officer at OCJ used excessive force while escorting him from his jail cell, causing him to fall down a flight of stairs. Plaintiff further alleges that the Jail Administrator and Sherriff of Overton County had prior knowledge of the officer’s “violent tendencies.”

Magistrate Judge Brown has issued a Report and Recommendation (“R & R”) (Docket No. 121) in which he recommends that defendants’ motion for summary judgment (Docket No. 103) be granted and this case dismissed. Despite being advised that any objection needed to be filed within fourteen days, plaintiff has filed none.

In accordance with Rule 72 of the Federal Rules of Procedure, the Magistrate Judge, and subsequently the Court, conducted a close examination of the evidence, including video footage from a jail surveillance camera that captured the incident on the stairs (Docket No. 118). The recording reveals that as the plaintiff descended with the officer behind him, he resisted and caused the officer to trip. Both men stumble down multiple steps as the officer struggled to right

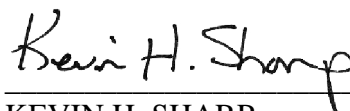
himself and halt plaintiff's fall. The Court agrees with the Magistrate Judge's conclusion that the corrections officer "did not act maliciously and sadistically for the purpose of causing harm to plaintiff, but that he acted in a good faith effort to restore discipline when plaintiff resisted and to keep plaintiff from injuring himself under very dangerous circumstances." (Docket No. 121 at 10). Furthermore, the Court agrees that the cause of action against the Sheriff and Jail Administrator is derivative of the unsuccessful excessive force claim, thus the Magistrate Judge is correct concluded his analysis at this point.

Accordingly, the Court rules as follows:

- (1) The R & R (Docket No. 121) is hereby ACCEPTED and APPROVED;
- (2) Defendants' Motion for Summary Judgment is hereby GRANTED;
- (3) This case is hereby DISMISSED WITH PREJUDICE;
- (4) Dismissal of this action is a STRIKE under 28 U.S.C. § 1915(g);
- (5) Any appeal to this order would NOT be taken in good faith under 28 U.S.C. § 1915(a)(3); and
- (6) Any remaining motions (Docket Nos. 53 and 79) are DENIED.

The Clerk of the Court shall enter Final Judgment in a separate document in accordance with Rule 58 of the Federal Rules of Civil Procedure.

It is SO ORDERED.



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KEVIN H. SHARP  
UNITED STATES DISTRICT JUDGE